

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

In the Matter of:)	Docket No. 99-AFC-2
)	
Application for Certification for)	PREHEARING STATEMENT
The Three Mountain Power Project)	
(Ogden Energy, Inc.))	
_____)	

1. Topics Ready to Proceed to Evidentiary Hearings

Staff believes all of the following topics are ready to proceed to hearings. See the attached matrix for a list of topics and estimates for direct testimony and cross-examination.

2. Topic Areas Requiring Adjudication

Air Quality: Staff understands that its testimony concerning this topic is at least partly contested by Burney Resources Group (BRG) and Black Ranch. BRG testimony raises issues regarding the amount of ammonia slip, the degree to which ammonia slip contributes to secondary PM10 formation, SCONOX as an appropriate mitigation, appropriate modeling and meteorological data, and the legitimacy of the offsets proffered by applicant Three Mountain Power (TMP).

Black Ranch raises issues disputing the adequacy of the required offsets and wood stove PM10 reductions.

Soil and Water Resources: Staff is unaware of issues requiring adjudication in this area. However, Staff anticipates that other parties may wish to cross-examine Staff witnesses. Staff has entered into a stipulation with TMP regarding Water Resources and Biological Resources that is discussed below.

Biological Resources: Staff understands that there is a dispute with BRG regarding the impact on biological resources (Shasta Crayfish and various terrestrial and aquatic mollusks) that result from the project's use of

underground water. BRG believes the project results in a significant adverse impact, and that dry cooling should be required to mitigate that impact. Staff believes that there is no direct impact, but that there is a potential for significant cumulative impact requiring mitigation. With the recommended mitigation, Staff believes the cumulative impact is less than significant. Staff is unaware of conflict with other parties on this topic that would require adjudication.

Staff has entered into a stipulation with TMP regarding Biological Resources and Water Resources. The stipulation addresses both project impacts and mitigation, and is consistent with and reflects conclusions contained in Staff's written testimony. The stipulation indicates that TMP and Staff agree that there is a degree of inherent uncertainty with regard to analyses of future hydrological impacts, and that such uncertainty warrants funding of mitigation measures for the overall cumulative impact on biological resources.

Noise: Staff understands that both TMP and BRG may dispute the Staff testimony. The Staff 's position is that the project will result in a significant noise impact unless the project can either meet the performance requirement of 48 dBA at the nearest residence or find some other approach to mitigate its impact at the nearest residence. TMP believes there is no significant impact and proposes to design to 50 dBA. BRG argues that the requirement should be 55 dBa at the project's property line.

Regarding all other topics, Staff is unaware of any issues requiring adjudication of facts with other parties. However, Staff may discover that issues exist in these areas when it receives all Prehearing Statements of other parties. Staff proposes that all undisputed topics be submitted by declaration unless other parties can justify bringing witnesses to the hearing for testimony to adjudicate important issues of fact. Thus, Staff does not plan to present testimony in those areas unless significant issues are identified by other parties in their Prehearing Statements, or unless the Committee specifically requests their live testimony.

3. Staff's witnesses at the evidentiary hearings:

Air Quality:	Tuan Ngo, Keith Golden
Soil and Water Resources:	Linda Bond, Richard Sapudor
Biological Resources:	Linda Spiegel
Noise:	Steve Baker, Jim Buntin

In addition to the above, Staff proposes to sponsor a witness from the Shasta County Air Quality Management District who can answer any questions regarding the District's Final Determination of Compliance. Staff will ask the air district to

identify this witness. Staff also requests that the noise issue be heard on Monday, December 18, 2000.

4. Hat Creek Project Use Permits

BRG has recently (December 7, 2000) submitted more detailed information regarding the Hat Creek Project, indicating its belief that the effects of this project have not been addressed in Staff's analysis and that hearings should be delayed.

Staff believes that it is important to have a complete cumulative analysis, and will attempt to examine the use permit materials prior to the scheduled hearings. It would appear that the Hat Creek Project has air emissions and that it will use significant amounts of water. There may also be noise and traffic impacts. Shasta County has prepared an environmental impact report for the project evaluating these impacts. It is Staff's intent to review the EIR to determine what, if any, effect the Hat Creek Project may have that is meaningfully cumulative to the TMP project. Such impacts, to the extent they are pertinent, will be addressed at hearing. It is important to note that Staff has already identified significant cumulative air quality and water resource impacts, and proposed mitigation that it believes is adequate and proportionate to the impacts of the TMP project. If Staff, after further consideration, believes that the Hat Creek Project data requires hearing delay, or that it necessitates reopening portions of the adjudicatory record already closed, it will so indicate to the Committee by December 14.

Date: December 11, 2000

RICHARD C. RATLIFF
Senior Staff Counsel

TOPIC AREA	STAFF			APPLICANT			BRG					
	Stipulated	Minutes of Direct	Minutes of Cross	Stipulated	Minutes of Direct	Minutes of Cross	Stipulated	Minutes of Direct	Minutes of Cross	Stipulated	Minutes of Direct	Minutes of Cross
PROJECT DESCRIPTION												
Staff, Buell	X						X					
Applicant, Toth	X						X					
AIR QUALITY												
Staff, Ngo		10							8-12			
Applicant, Thompson			0						7-10			
McFadden									7-10			
Hattar									7-10			
BRG, Gilbert			5					30				
Bedwell			5					20				
Reys			5					20				
Black Ranch, Erbes			5						5-7			
Shasta Co. AQMD Kussow		5							15			
EFFICIENCY												
Staff, Baker	X						X					
Applicant, Hattar	X						X					
LAND USE												
Staff, Walker	X								5-7			
NOISE												
Staff, Kisabuli		0							7-10			
Baker,		5							5-7			
Buntin		5							5-7			
Applicant, Fuller			5									
BRG, Murray			5					20				
PUBLIC HEALTH												
Staff, Odoemelum	X								5-10			
Applicant, Thompson	X								5-10			
RELIABILITY												
Staff, Baker	X						X					
Applicant, Hattar	X						X					

TOPIC AREA	STAFF			APPLICANT			BRG					
	Stipulated	Minutes of Direct	Minutes of Cross	Stipulated	Minutes of Direct	Minutes of Cross	Stipulated	Minutes of Direct	Minutes of Cross	Stipulated	Minutes of Direct	Minutes of Cross
VISUAL RESOURCES												
Staff, Flores	X								5-			
Applicant, Gale	X								5			
Richmond	X								5			
WASTE MANAGEMENT												
Staff, Ringer	X						X					
Applicant, Thompson	X						X					
Hochmuth	X						X					
ALTERNATIVES												
Staff, Walker	X								5-7			
BIOLOGICAL RESOURCES												
Staff, Spiegel		10							10			
Applicant, Garcia			5						7-10			
Chainey-Davis									7-10			
Jackman									7-10			
McFadden									5			
BRG, Ellis			5					30				
Cook			5					20				
Comments of USFWS, Epanchin									10			
WATER RESOURCES												
Staff, Sapudar			5						10			
Bond			10						10			
Rose			5						15			
CURE, Fox declaration	X											
Applicant, Sheahan,			5						10			
Hamer			0						10			
McFadden			0						10			